THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.2767 of 2006

Dated: 16-06-2006

Between:

Koppu Venkata Swamy and another.

..Petitioner

and

The Additional Agent to Government and Project Officer, I.T.D.A. Paderu, Visakhapatnam District and others.

..Respondents.

THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.2767 of 2006

ORDER:

The petitioners claim to be in possession and enjoyment of the land to an extent of Ac.1-61 cents and Ac.0-22 cents situated in Sy.Nos.34/C and 34/2A of Panasalapudi Village, Koyyuru Mandal, Visakhapatnam District. It is stated that the said lands are Government waste lands and the same were occupied by their ancestors 50 years ago who made the same fit for cultivation by spending huge amounts.

While so, the 3rd respondent herein, by order, dated 10-03-2000 directed ejectment of the petitioners from the land in question. Aggrieved by the same, the petitioners filed an appeal before the District Collector and the Additional Agent to the Government, Visakhapatnam. The said appeal was registered as ACMA.No.3/2000 and status quo was ordered to be maintained pending appeal. Subsequently, the 1st respondent – Project Officer, ITDA, Paderu, who has been designated as Agent to the Government, having taken up the said appeal, dismissed the same by order dated 20-8-2005 and remanded the mater to the Sub-Collector for determination of title of the properties. The said order is under challenge in this writ petition.

On behalf of the 1st respondent, a counter-affidavit has been

filed denying the plea of the petitioners that they have been in possession of the land in question for several years. It is further contended that as per the orders passed by the Government in G.O.Ms.No.193 delegating the appellate powers to the Project Officer, the 1st respondent is competent to entertain the appeal.

Though the learned Counsel for the petitioner could not dispute the competency of the 1st respondent by virtue of the powers delegated under G.O.Ms.No.193, it is pointed out that the order of eviction dated 10-3-2000 was passed by the 1st respondent himself while holding Full Additional Charge (FAC) as Sub-Collector and Special Deputy Collector (Tribal Welfare), Paderu. The learned Counsel for the petitioner contended that the 1st respondent cannot sit over the judgment over his own order in the capacity of appellate authority and on that ground alone the impugned order is liable to be set aside. The learned Counsel further contended that since the order of ejectment dated 10-3-2000 was passed by the 3rd respondent without notice as required under law, the said order is also liable to be set aside.

The fact that the order dated 10-3-2000 was passed by the 1st respondent while holding charge as Special Deputy Collector, Paderu has not been disputed by the learned Government Pleader. If that be so, the order dated 20-8-2005 in A.C.M.A.No.3 of 2000 passed by the 1st respondent being in violation of fundamental principles of natural justice is liable to be set aside. That apart, since nothing has been placed before this Court by the respondents to show that the petitioners were heard before passing the order of ejectment, I deem it appropriate to set aside the order of ejectment also and remand the matter for

consideration afresh.

Accordingly, both the orders dated 20-8-2005 and 10-3-2000 are set aside and the Writ Petition is allowed with a direction to the 3rd respondent to consider the matter afresh and pass appropriate orders in accordance with law with notice to the writ petitioners as well as the respondents 4 and 5 herein. No order as to costs.

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G. ROHINI, J

Dated: 16-06-2006

sj